REMARKS

No claims have been amended, added or canceled. Therefore, claims 1 – 22 remain pending in the application. Reconsideration is respectfully requested in view of the following remarks.

Section 102(e) Rejection:

The Examiner rejected claims 1-7, 9-18 and 20-22 under 35 U.S.C. § 102(e) as being anticipated by Moshir et al. (U.S. Publication 2002/0100036) (hereinafter "Moshir"). Applicant traverses the rejection for at least the following reasons.

Claims 1 and 12

In regard to claim 1, Moshir fails to teach or suggest a method for patching applications comprising deploying a patch package on a first computer running a first type of operating system, wherein the patch package comprises a patching mechanism and a first set of one or more new code components, and wherein the patching mechanism is also executable on a second computer running a second type of operating system, and executing the patching mechanism on the first computer, wherein executing the patching mechanism comprises replacing a first set of one or more old code components in a first application with the first set of one or more new code components. The Examiner asserts Moshir discloses a patching mechanism that is also executable on a second computer running a second type of operating system and cites paragraph [0047] and lines 1-3 of paragraph [0009] reproduced below:

> A given network 100 may include Novell Netware network operating system software (NETWARE is a registered trademark of Novell, Inc.), NetWare Connect Services, VINES, Windows NT, Windows 95, Windows 98, Windows 2000, Windows ME, LAN Manager, or LANtastic network operating system software, LNIX, TCP/IP and NFS-based systems, Distributed Computing Environment software, and/or SAA software, for instance (VINES is a trademark of Banyan Systems; NT, WINDOWS 95, WINDOWS 98, WINDOWS 2000, WINDOWS ME,

> WINDOWS XP and LAN MANAGER are trademarks of Microsoft Corporation; LANTASTIC is a trademark of Artisoft; SAA is a mark of IBM). The network may include a local area network which is connectable to other networks through a gateway or similar mechanism. (paragraph 0047)
>
> When an application is installed, it may contain one or more of these operating systems file patches along with the standard computer files. The patches are generally included because the application vendor discovered some anomalous behavior in one or more of the operating system files, and so sent a "fix" in the form of a different version of one of these troublesome files. This would cause relatively little difficulty if only one application vendor performed this service, or if the file modified by the application vendor is used only by that vendor's application. However, this is often not the case. (paragraph 0009)

However, the cited art fails to mention anything about a patching mechanism executing on a first computer running a first type of operating system much less a patching mechanism that is also executable on a second computer running a second type of operating system. Instead, Moshir describes that his system's network may include various network operating system software applications (paragraph 0047) and that an application may contain one or more operating systems file patches (paragraph 0009). However, a network containing various software applications and/or an application containing one or more operating systems file patches fails to teach or suggest anything at all about the functionality of a patching mechanism much less a patching mechanism of a patch package that is deployed on a first computer running a first type of operating system and also executable on a second computer running a **different** type of operating system.

Moshir does describe an "update agent" (*see e.g.,* Fig. 2, item 204; Fig. 5, item 508) that installs software patches (*see e.g.,* paragraph 27, lines 5-7) on target computers. However, Moshir fails to teach or suggest, in the cited art or elsewhere, that the "update agent" (or any other item of Moshir's system) meets the limitations of claim 1 including **the same** patching mechanism executable on computers running two different types of operating systems.

In the response to arguments section, the Examiner asserts that "Moshir discloses a method wherein patch mechanism is executing on the first computer running a first type of operating system and is also executable on the second computer running a second type of operating system." The Examiner cites lines 3-6 of paragraph 103, which is reproduced below:

> The target computer contains a network connection 544, which may be protected from the outside by a firewall 526 as is discussed above. Different target computers within a network may run on different platforms; for instance, some may be Windows machines, some Unix machines, etc. The same update server 528 can be used for all the platforms, or different update servers 528 can be specified by platform type, or the update servers 528 can be assigned to target computers 500 using a different schema. (paragraph [0103], emphasis added)

While Moshir does disclose that different target computers may run on different platforms, **nowhere does Moshir teach or suggest that the update agents themselves are executable on a first computer running a first type of operating system and a second computer running a second type of operating system.** The Examiner further asserts "[t]hus Moshir describes an update agent that installs software patches on target computer directly from update server (see paragraph 0027, lines 5-7 "*update agent 204 attempts to install the software patch directly from the update server*"). **However, nowhere does Moshir that any *particular* update agent (including update agents 204 and 210) is executable on a first computer running a first type of operating system and a second computer running a second type of operating system.** In Figure 2, Moshir illustrates update agent 204 as a component of target1 202 and a second update agent 210 as a component of target2 208. While Moshir illustrates each update agent as a component of its respective target computer, nowhere does Moshir teach or suggest that any one of the update agents is executable on another target computer running another type of operating system. **Whether or not target computers may run on different platforms is irrelevant since Moshir fails to teach or suggest that the same update agent is executable on two different target computers running on different types of operating systems.** The system and method taught by Moshir is clearly different than Applicant's invention as claimed.

Applicants respectfully remind the Examiner that anticipation requires the presence in a single prior art reference disclosure of each and every limitation of the claimed invention, arranged as in the claim. M.P.E.P 2131; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The **identical invention** must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As discussed above, Moshir clearly fails to disclose a patching mechanism according to the specific limitations of claim 1 including a patching mechanism executable on two computers running different types of operating systems. Therefore, Moshir cannot be said to anticipate claim 1.

Thus, for at least the reasons presented above, the rejection of claim 1 is unsupported by the cited art and removal thereof is respectfully requested. Similar remarks apply to claim 12.

Claims 11 and 22

Moshir fails to teach or suggest wherein the user interface for the patching mechanism is the same on different platforms. The Examiner cites paragraph [0140] of Moshir, which discloses "(Optional) Import--Imports a previously exported package. This option is useful for creating the same package for multiple operating systems". However, nowhere does Moshir teach or suggest a user interface for his update agent (which the Examiner appears to equate to Applicant's patch mechanism in the response to arguments) is distributed as part of the package described in paragraph [0140].

Applicant also asserts that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

Section 103(a) Rejection:

The Examiner rejected claims 8 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Moshir in view of Taylor (U.S. Patent 6,161,218). Applicant respectfully traverses the rejection for at least the following reasons. Applicant asserts claims 8 and 19 recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of claims 8 and 19 is not necessary at this time.

CONCLUSION

Applicant respectfully submits that the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-54200/RCK.

Respectfully submitted,

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